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REMARKS

Claims 1-39 are pending. Claims 1, 3, 4, 6, 29-32, 34, 36 and 39 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,102,464 to Schneider et al. ("Schneider"). Claims 5, 7-28, 33, 35, 37 and 38 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Schneider.

Applicants respectfully traverse the rejections under §102 and §103 for at least the reasons set forth below.

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§102 Rejections Are Overcome

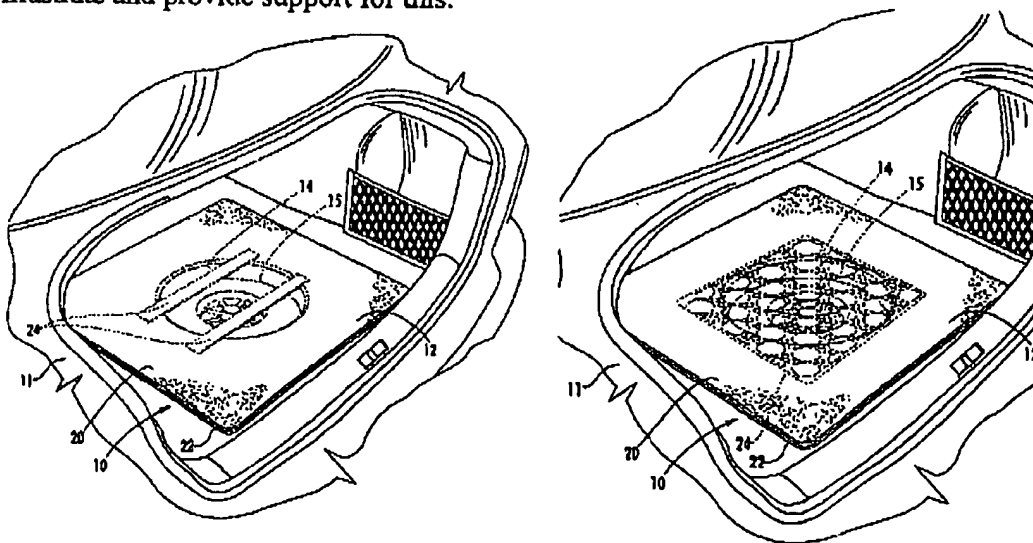
A claim is anticipated under 35 U.S.C. §102 if each claimed element is found in a single prior art reference. *Scripps Clinic & Research Foundation v. Genentech, Inc.*, 927 F.2d 1565, 1576 (Fed. Cir. 1991); *Carella v. Starlight Archery and Pro Line Co.*, 804 F.2d 135, 138 (Fed. Cir. 1986). There must be no difference between the claimed invention and the reference disclosure, as viewed by an ordinary artisan. *Scripps Clinic & Research Foundation v. Genentech, Inc.*, 927 F.2d at 1576.

Applicants' amended independent Claim 1 recites a vehicle floor mat, comprising:

a pliable layer configured to overlie an area of a vehicle floor; and
a rigid member attached to a portion of the pliable layer, wherein the *rigid member has a width substantially less than a width and length of the pliable layer*, but sufficient to span a recessed portion in the vehicle floor area such that the pliable layer is rendered substantially non-pliable above the recessed portion, and such that the floor mat is *self-supporting* and can *independently support* a load placed thereon above the recessed portion, *without any external support from within the recessed portion*.

Claims 9, 18, 23, 29 and 36-39 contain similar recitations.

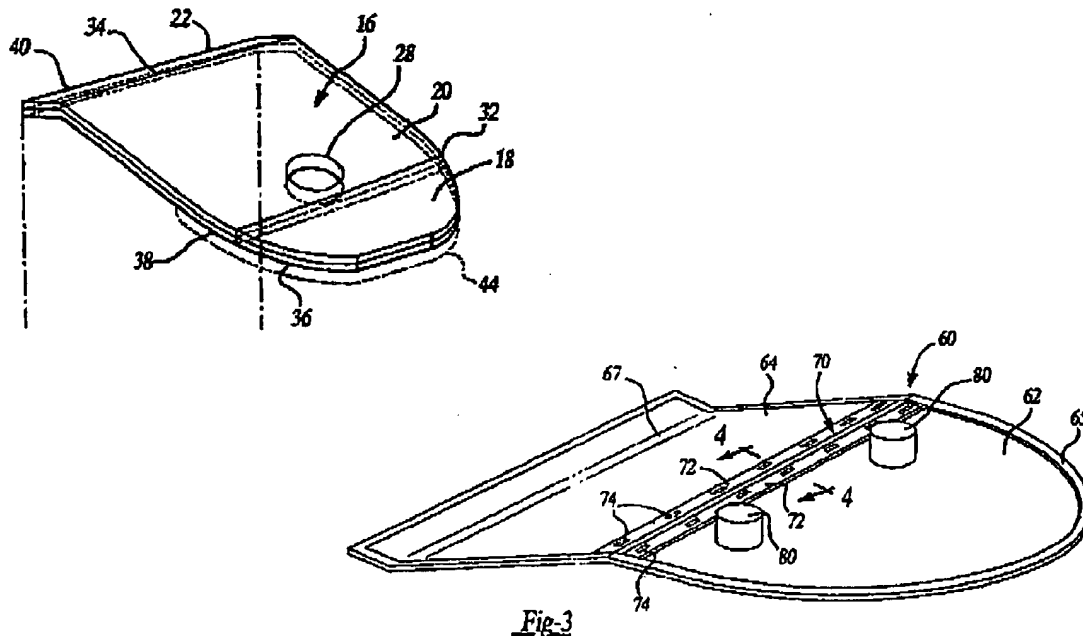
As illustrated in all of the embodiments of Applicants' invention, a rigid member has a width that is substantially less than any dimension of a respective pliable layer attached thereto. Figs. 4 and 5 from Applicants' application are set forth below and clearly illustrate and provide support for this.



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In all of Applicants' claimed embodiments, a rigid member does not extend all the way to the periphery of a pliable layer. In fact, each rigid member has a width that is sufficient to span a recessed portion, but that is substantially less than the width and length of the pliable layer.

In each of the embodiments described in Schneider, the rigid panels of the spare tire cover (e.g., 36, 38, 40 in Fig. 1, and 62, 64 in Figs. 3-4) extend all the way to the periphery of the spare tire cover in all directions. Fig. 1 and Fig. 3 of Schneider are set forth below.



Clearly, none of the rigid panels in Schneider have a width that is substantially less than a width or length of the spare tire cover.

As viewed by the ordinary artisan, there is a great difference between Applicants' mat as claimed in independent Claim 1 and the Schneider cover. Because Schneider does not disclose all of the recited elements of independent Claim 1, Claim 1 and all claims depending therefrom are not anticipated by Schneider. For at least the same reasons, independent Claims 18, 23, 29 and 36-39, and all claims depending therefrom, are not anticipated by Schneider.

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Applicants' dependent Claim 2 recites that the rigid member is at least partially disposed within the pliable layer. The Action cites Col. 2, Lines 58-59 of Schneider for teaching that a rigid member (36,38,40) is at least partially disposed within a pliable layer 43,44. (Action, Page 2). Applicants respectfully disagree.

The cited passage from Schneider is set forth below:

To provide additional strength, a second layer of carpet 44 can be affixed to the bottom surfaces of sheets 36, 38, 40. (Col. 2, Lines 58-59).

Schneider describes using *two* separate layers of carpet and sandwiching the sheets of wood (36,38,40) between the *two* carpet layers. This is not the same as Applicants' recitation in Claim 2 of partially disposing a rigid member within only a single pliable layer. Because Schneider does not disclose all of the recited elements of Claim 2, Claim 2 is not anticipated by Schneider. For at least the same reasons, Claims 10, 30 and 38 are not anticipated by Schneider.

In view of the above, the rejections under 35 U.S.C. §102 are overcome.

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§103 Rejections Are Overcome

A determination under §103 that an invention would have been obvious to someone of ordinary skill in the art is a conclusion of law based on fact. *Panduit Corp. v. Dennison Mfg. Co.* 810 F.2d 1593, 1 U.S.P.Q.2d 1593 (Fed. Cir. 1987), *cert. denied*, 107 S.Ct. 2187. After the involved facts are determined, the decision maker must then make the legal determination of whether the claimed invention as a whole would have been obvious to a person having ordinary skill in the art at the time the invention was unknown, and just before it was made. *Id.* at 1596. The United States Patent and Trademark Office (USPTO) has the initial burden under § 103 to establish a *prima facie* case of obviousness. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988).

To establish a *prima facie* case of obviousness, the prior art reference or references when combined must teach or suggest *all* the recitations of the claims, and there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. M.P.E.P. § 2143. The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. M.P.E.P. § 2143.01(citing *In re Mills*, 916 F.2d 680, 16 U.S.P.Q.2d 1430 (Fed. Cir. 1990)). As emphasized by the Court of Appeals for the Federal Circuit, to support combining references, evidence of a suggestion, teaching, or motivation to combine must be **clear and particular**, and this requirement for clear and particular evidence is not met by broad and conclusory statements about the teachings of references. *In re Dembiczak*, 50 U.S.P.Q.2d 1614, 1617 (Fed. Cir. 1999). The Court of Appeals for the Federal Circuit also has stated that, to support combining or modifying references, there must be **particular** evidence from the prior art as to the reason the skilled artisan, with no knowledge of the claimed invention, would have selected these components for combination in the manner claimed. *In re Kotzab*, 55 U.S.P.Q.2d 1313, 1317 (Fed. Cir. 2000).

Furthermore, as stated by the Federal Circuit with regard to the selection and combination of references:

This factual question of motivation is material to patentability, and could not be resolved on subjective belief and unknown authority. It is improper, in determining

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whether a person of ordinary skill would have been led to this combination of references, simply to "[use] that which the inventor taught against its teacher." W.L. Gore v. Garlock, Inc., 721 F.2d 1540, 1553, 220 USPQ 303, 312-13 (Fed. Cir. 1983). Thus the Board must not only assure that the requisite findings are made, based on evidence of record, but must also explain the reasoning by which the findings are deemed to support the agency's conclusion....

In re Sang Su Lee, 277 F.3d 1338, 1343 (Fed. Cir. 2002).

The Action concedes that Schneider fails to disclose rigid members comprising a plurality of spaced-apart apertures formed therethrough, as recited in Applicants' Claims 7, 15, 18-20, 22, 28 and 35. However, the Action concludes that it would be obvious to one of ordinary skill in the art to include a plurality of spaced-apart apertures because of the motivation to reduce the weight of the floor mat and therefore increase the fuel efficiency of the vehicle. (Action, Page 5). The Action cites Col. 2, Lines 60-65 of Schneider, which describes that the panels of the Schneider cover could be made of plastic. The Action then concludes that, because the Schneider panels could be made of plastic, it would be obvious to include a plurality of apertures since both would reduce weight.

Applicants respectfully submit that the Action has made an improper rejection under §103. The Federal Circuit requires that there be clear and particular evidence of motivation to modify a reference. Here, the Action is assuming that plastic is necessarily lighter than wood. However, one skilled in the art of plastics would know that there are many plastics that are denser and heavier than various types of wood. Nothing in Schneider teaches or suggests that the plastic used in the Schneider cover must be lighter than wood. As such, it is just as likely that plastic used in the Schneider cover could be *heavier* than wood.

Moreover, nothing in Schneider teaches or suggests that it would be desirable to reduce the weight of the cover elements. Weight does not appear to be of concern based upon the design of the Schneider cover because no alternative materials that are specifically described as being lighter than wood are suggested or described and because no alternative configurations of the cover elements are suggested or described. As such, one skilled in the art would not be motivated based upon the teachings of Schneider to modify Schneider by forming apertures in the Schneider wood sheets and composition boards. Accordingly, Applicants respectfully

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request withdrawal of the present rejections of Claims 7, 15, 18-20, 22, 28 and 35 under 35 U.S.C. §103.

In view of the above, it is respectfully submitted that this application is in condition for allowance, which action is respectfully requested.

Respectfully submitted,

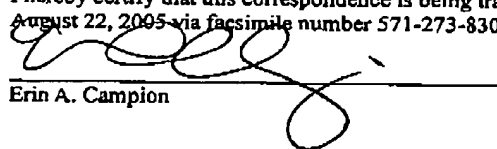


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Erin A. Campion